

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES AND EXCHANGE COMISSION,

Plaintiff,

v.

DEVON ARCHER, BEVAN T. COONEY, HUGH DUNKERLEY, JASON W. GALANIS, JOHN P. GALANIS, GARY T. HIRST, MICHELLE A. MORTON, and FRANCISCO MARTIN,

Defendants.

**DEFENDANT DEVON D.
ARCHER'S AMENDED
ANSWER TO THE
AMENDED COMPLAINT**

16 Civ. 3505 (WHP) (AJP)

Filed Electronically

Devon D. Archer (“Mr. Archer”), by his attorneys Boies, Schiller & Flexner LLP, for his amended answer to the Complaint of Plaintiff the Securities and Exchange Commission (“SEC”), states as follows:

Mr. Archer looks forward to defending himself in this action. The purported evidence cited by the SEC in its Amended Complaint is, with respect to Mr. Archer, often incompletely and misleadingly quoted and incorrectly described. However, on the advice of his undersigned counsel, with respect to certain of the SEC’s allegation, Mr. Archer asserts his constitutional right not to respond. Because the SEC’s Amended Complaint is comprised of mere allegations, and not evidence, no adverse inference may be drawn from Mr. Archer’s invocation of his rights, at the instruction of counsel. *See generally LaSalle Bank Lake View v. Seguban*, 54 F.3d 387, 390-91 (7th Cir. 1995); *OS Recovery, Inc. v. One Groupe Int’l, Inc.*, No. 02 Civ. 8993 (LAK), 2005 WL 850830, at *1 (S.D.N.Y. Apr. 12, 2005).

SUMMARY OF THE ALLEGATIONS

1. Paragraph 1 contains Plaintiff's summary of the action—a summary that does not mention Mr. Archer—to which no response is required. To the extent that a response is required, on the advice of counsel, Mr. Archer asserts his constitutional right not to respond.

2. Paragraph 2 contains a summary of the action to which no response is required. To the extent that this paragraph purports to quote conversations or documents, Mr. Archer respectfully refers the Court to those documents or conversations, which speak for themselves. To the extent that a further response is required, on the advice of counsel, Mr. Archer asserts his constitutional right not to respond.

3. Paragraph 3 contains Plaintiff's summary of the action, to which no response is required. To the extent that a response is required, on the advice of counsel, Mr. Archer asserts his constitutional right not to respond.

4. Paragraph 4 contains Plaintiff's summary of the action, to which no response is required. To the extent that a response is required, on the advice of counsel, Mr. Archer asserts his constitutional right not to respond.

5. Paragraph 5 contains Plaintiff's summary of the action, to which no response is required. To the extent that a response is required, on the advice of counsel, Mr. Archer asserts his constitutional right not to respond.

6. Paragraph 6 contains Plaintiff's summary of the action, to which no response is required. To the extent that this paragraph purports to quote or describe documents, Mr. Archer respectfully refers the Court to those documents, which speak for themselves. To the extent that a further response is required, on the advice of counsel, Mr. Archer asserts his constitutional right not to respond.

7. Paragraph 7 contains Plaintiff's summary of the action, to which no response is required. To the extent that a response is required, on the advice of counsel, Mr. Archer asserts his constitutional right not to respond.

8. On information and belief, Mr. Archer admits the allegations contained in Paragraph 8, specifically, that Jason Galanis, John Galanis, and Hirst were charged criminally in or about September 2015, that Jason Galanis and John Galanis have pled guilty in connection with that matter, and that Hirst was convicted after a jury trial of one count each of conspiracy to commit securities fraud, securities fraud, conspiracy to commit wire fraud, and wire fraud.

9. Paragraph 9 contains Plaintiff's summary of the action, to which no response is required. To the extent that a response is required, on the advice of counsel, Mr. Archer asserts his constitutional right not to respond.

VIOLATIONS

10. Paragraph 10 contains conclusions of law to which no response is required. To the extent a response is required, Mr. Archer denies the allegations contained in Paragraph 10.

11. Paragraph 11 consists of conclusions of law to which no response is required.

12. Paragraph 12 consists of conclusions of law to which no response is required. To the extent a response is required, Mr. Archer denies the allegations contained in Paragraph 12.

13. Paragraph 13 consists of conclusions of law to which no response is required.

JURISDICTION AND VENUE

14. Paragraph 14 consists of a description of the Plaintiff's purported jurisdiction and the relief sought by the Plaintiff, to which no response is required.

15. Paragraph 15 consists of conclusions of law to which no response is required. To the extent a response is required, on the advice of counsel, Mr. Archer asserts his constitutional

right not to respond.

DEFENDANTS

16. On information and belief, Mr. Archer admits the allegations in Paragraph 16, except denies that Jason Galanis resides in Los Angeles, California. Upon information and belief, Jason Galanis resides in the Metropolitan Correctional Center in New York, New York. According to the Bureau of Prisons' website, Jason Galanis is 46 years old.

17. Mr. Archer denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 17.

18. On the advice of counsel, Mr. Archer asserts his constitutional right not to respond to the allegations in Paragraph 18, except admits that he 42 years old and resides in Brooklyn.

19. Mr. Archer denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 19.

20. Mr. Archer denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 20.

21. Mr. Archer denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 21.

22. Mr. Archer denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 22.

23. Mr. Archer denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 23.

OTHER RELEVANT ENTITIES

24. On advice of counsel, Mr. Archer asserts his constitutional right not to respond.

25. Mr. Archer denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 25.

26. On advice of counsel, Mr. Archer asserts his constitutional right not to respond.

27. On the advice of counsel, Mr. Archer asserts his constitutional right not to respond, except admits, upon information and belief, that Atlantic Asset Management was the subject of a civil action filed by the SEC and is now in receivership.

28. Mr. Archer denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 28.

FACTS

29. Paragraph 29 contains a summary of the action to which no response is required. To the extent a response is required, on the advice of counsel, Mr. Archer asserts his constitutional right not to respond.

30. Paragraph 30 contains Plaintiff's summary of the action, to which no response is required. To the extent that this paragraph purports to quote or describe documents, Mr. Archer respectfully refers the Court to those documents, which speak for themselves. To the extent that a further response is required, on the advice of counsel, Mr. Archer asserts his constitutional right not to respond.

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89. Paragraph 89 contains only a sentence fragment, with no factual allegations to which a response is required.

90. On the advice of counsel, Mr. Archer asserts his constitutional right not to respond.

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109. On the advice of counsel, Mr. Archer asserts his constitutional right not to respond.

110. On the advice of counsel, Mr. Archer asserts his constitutional right not to respond.

111. On information and belief, Mr. Archer admits the allegations contained in Paragraph 111, specifically, that Hirst, Jason Galanis, John Galanis, and others were the subject of a civil lawsuit by the SEC and criminal charges in or about September 2015. On information and belief, Jason Galanis and John Galanis have now pled guilty in connection with the criminal case, and Hirst was convicted after a jury trial of one count each of conspiracy to commit securities fraud, securities fraud, conspiracy to commit wire fraud, and wire fraud.

112. On the advice of counsel, Mr. Archer asserts his constitutional right not to respond.

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119. To the extent that this paragraph purports to quote or describe documents, Mr. Archer respectfully refers the Court to those documents, which speak for themselves. To the extent that a further response is required, on the advice of counsel, Mr. Archer asserts his constitutional right not to respond.

120. Upon information and belief, Mr. Archer admits that the SEC filed a lawsuit against Atlantic Asset Management on or about December 15, 2015, and that the Court

appointed a monitor over AAM.

121. Mr. Archer denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 119.

FIRST CLAIM FOR RELIEF

122. Mr. Archer incorporates his responses to Paragraphs 1 through 121.

123. Paragraph 123 states conclusions of law and legal assertions to which no response is required

124. Paragraph 124 states conclusions of law and legal assertions to which no response is required.

125. Paragraph 125 states conclusions of law and legal assertions to which no response is required.

126. Paragraph 126 states conclusions of law and legal assertions to which no response is required.

SECOND CLAIM FOR RELIEF

127. Mr. Archer incorporates his responses to Paragraphs 1 through 121.

128. Paragraph 128 states conclusions of law and legal assertions to which no response is required.

129. Paragraph 129 states conclusions of law and legal assertions to which no response is required.

130. Paragraph 130 states conclusions of law and legal assertions to which no response is required.

131. Paragraph 131 states conclusions of law and legal assertions to which no response is required.

132. Paragraph 132 states conclusions of law and legal assertions to which no response is required.

133. Paragraph 133 states conclusions of law and legal assertions to which no response is required.

THIRD CLAIM FOR RELIEF

134. Mr. Archer incorporates his responses to Paragraphs 1 through 121.

135. Paragraph 135 states conclusions of law and legal assertions to which no response is required.

136. Paragraph 136 states conclusions of law and legal assertions to which no response is required.

137. Paragraph 137 states conclusions of law and legal assertions to which no response is required.

FOURTH CLAIM FOR RELIEF

138. Mr. Archer incorporates his responses to Paragraphs 1 through 121.

139. Paragraph 139 states conclusions of law and legal assertions to which no response is required.

140. Paragraph 140 states conclusions of law and legal assertions to which no response is required.

141. Paragraph 141 states conclusions of law and legal assertions to which no response is required.

PRAYER FOR RELIEF

142. The paragraphs labelled I through IX under the heading "Prayer for Relief" state the relief requested by the Plaintiffs in this action, to which no response is required.

AFFIRMATIVE DEFENSES

In further response, upon information and belief and subject to further investigation and discovery, Mr. Archer asserts the following affirmative defenses:

FIRST AFFIRMATIVE DEFENSE

Plaintiff fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

The Complaint fails to meet the pleading requirements of the Federal Rules of Civil Procedure.

THIRD AFFIRMATIVE DEFENSE

Plaintiff's claims for injunctive relief are barred because Plaintiff has an adequate remedy at law.

INCORPORATION BY REFERENCE

Mr. Archer incorporates by reference any defense that any other defendant pleads in this action, to the extent the defense applies to any claims against Mr. Archer in whole or in part.

RESERVATION OF RIGHTS

Mr. Archer reserves the right to allege other defenses and affirmative defenses as they become known during the course of discovery, and hereby specifically reserves the right to amend his answer to allege such additional affirmative defenses at such time as they become known, to the extent required.

JURY DEMAND

Pursuant to Federal Rule of Civil Procedure 38(b), Mr. Archer demands a trial by jury on all issues so triable.

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PRAYER FOR RELIEF

Wherefore, Mr. Archer asks:

1. That judgment be entered in his favor and against Plaintiff;
2. That the Complaint and all claims be dismissed with prejudice;
3. For attorneys' fees and the costs of suit; and
4. For such other relief that the Court deems just and proper.

Dated: New York, New York
December 1, 2016

BOIES, SCHILLER & FLEXNER LLP
Attorneys for Defendant Devon Archer

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